HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No. 1981 OF 1995

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ORDER:

This Writ Petition is filed, aggrieved by the order of eviction dated 9-4-1990 in proceedings No.A4/1047/87, passed by the Mandal Revenue Officer, Armoor Mandal, Nizamabad District, in exercise of powers under the provisions of the AP Land Encroachment Act, 1905, as confirmed by the appellate and revisional authorities.

The petitioner claims to be in possession of an extent of Ac.2.00 of agricultural land in Sy.No. 446 of Perkit village Armoor Mandal, Nizamabad District. The grievance of the petitioner in this writ petition is, that the respondents without giving proper opportunity as contemplated under the provisions of the A.P. Land Encroachment Act, 1905, passed the order of eviction. It is also the case of the petitioner, that even the revisional authority has not given reasonable opportunity before disposing of the revision petition filed by him.

Initially the third respondent, Mandal Revenue Officer, has passed order dated 9-4-1990 in proceedings No.A4/1047/87, under Section 6 of the AP Land Encroachment Act, 1905. As against the same, the petitioner had filed appeal before the Revenue Divisional Officer, who by order dated 2-12-1992 in proceedings No.B4/3513/90, dismissed the same. As against the same, the petitioner carried the matter in revision before the Government. Though, under the provisions of the AP Land Encroachment Act, 1905, revision lies to the Government under Section 12-A of the Act, but however, the petitioner has filed revision petition before the Government quoting the provision as Section 166-B of the Land Revenue Act. It is the grievance of the petitioner, that though at the time of presentation of revision petition, the revisional authority heard the matter and granted interim order, but, however, without hearing, the revision petition was finally disposed of.

Counter affidavit has been filed on behalf of the respondents. As it is not clear from the counter affidavit filed by the respondents with regard to issuance of notice by the revisional authority before disposal of the revision petition, when the matter has come up on earlier occasion, the learned Government Pleader was directed to produce relevant record. To day, the record relating to the revision petition is produced before this Court. A perusal of the record discloses that the revision petition was posted for hearing on 4-10-1994 and the same was adjourned to 15-10-1994. However, the revisional authority has passed the final order by recording a finding that the case was called on 17-10-1994 and there was no representation on behalf of the petitioner.

From the above referred record, it is clear that there was no notice issued by the revisional authority for hearing of the case on 17-10-1994. Though the matter was listed on 4-10-1994, it was adjourned to 15-10-1994. But, however, the revision petition was not heard on 15-10-1994 and it was taken up only on 17-10-1994 and thereafter impugned order is passed. The petitioner did not have any opportunity to present himself to pursue the case before the revisional authority on 17-10-1994. As much as the revision petition filed by the writ petitioner was disposed of without hearing him, it is evidently a fit case to set aside the orders passed by the revisional authority and remand the matter to the Government for fresh consideration, by hearing the petitioner.

Accordingly the Writ Petition is allowed in part, setting aside the order dated 11-11-1994 passed in G.O.Ms.No. 1156, Revenue (Asn.IV) Department. The revisional authority is directed to give notice of hearing to the petitioner and dispose of the revision petition accordingly. As revisional authority has granted interim order at the time of filing the revision petition and the said order continued all along, I further direct the respondents to maintain status quo with regard to possession of the land in question, till disposal of the revision petition. The revisional authority is directed to dispose of the revision petition as expeditiously as possible, preferably within a period of three months from the date of receipt of this order. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 10-02-2006

VR/Msnr